



**LEGAL ASSISTANCE CENTRE**  
*Fighting for human rights in Namibia since 1988*



# *Pro* **Bono**

## **INFORMATION ABOUT NAMIBIA'S LAW**

### **Sterilization and Consent**

Sterilization is a permanent form of contraception, and someone who has been sterilized will no longer be able to conceive. This medical procedure is available to both men and women. It is important to know that sterilization does not protect you from sexually-transmitted infections, including HIV.

Male sterilization, which is also known as a vasectomy, involves the cutting and sealing or tying of the tube that carries sperm from the testicles to the penis. Female sterilization, sometimes referred to as “having your tubes tied”, involves the cutting or blocking of the tubes between the ovary and the womb, to prevent the eggs from meeting the sperm.

Someone should only be sterilized if they are absolutely certain they do not want to have children in the future. If you are considering sterilization, you should get full information and counselling before you make any decision to undergo the procedure.

For example, you should speak to your doctor about other methods of contraception which are reversible, possible complications that may result from sterilization, how long to use contraception after the operation, and what protection you should use to safeguard against sexually-transmitted infections.

You should also discuss sterilization with your spouse or partner, if you have one, since your decision will affect your ability to conceive children in the future. However, it is ultimately your decision alone. You do not have to have the consent of your spouse to be sterilized.

Consent to sterilization is a legal requirement. For consent to be valid, you must give your permission voluntarily after being informed about the risks and consequences of sterilization. Sterilization without your consent (except in very limited cases) is a form of assault and a violation of your rights to privacy and dignity.

Voluntary consent means that no one can force you to give consent by making threats or forcing you in any other way. You can ask for advice from other people, but it is not for your doctor, your partner, your friend or your family to make the decision for you. It is your decision alone.

If you feel that you are being pressured, you should speak to someone that you trust. You can also get help from a social worker, a police officer or someone in charge at the health facility. If it is a medical practitioner that is pressuring you, you can make a complaint to the Health Professions Councils of Namibia.

For consent to be valid, it must also be informed. Doctors have an ethical duty to provide you with relevant information and to get your permission before performing any medical treatment on you.

This means that your doctor must explain the sterilization procedure to you clearly and must also make sure you have the intellectual and emotional capacity to understand the benefits and risks, the consequences of having or not having the procedure, the alternatives to sterilization and any other

relevant information. Once you understand the procedure and all of its consequences, the doctor must obtain your written, informed consent.

The Legal Assistance Centre has received reports that some doctors are asking patients to swear out a statement agreeing to sterilization at a police station as part of the consent process. This is not the correct procedure. Your medical treatment is a private matter. It is up to you to decide if you will share information about your personal medical issues with anyone else. No doctor should force you to reveal your intention to be sterilized to a member of the police or anyone else.

Consent is usually given close to the time of the procedure. However, there are certain circumstances where you should discuss the procedure and provide consent in advance – for example, if you would like to get sterilized immediately after child birth. Otherwise, a doctor may not be able to obtain informed consent from you once you are in labour and have been given medication, or if you are in severe pain and unable to think clearly.

There are some situations where the normal consent requirements may not be applicable, such as in emergency situations, or where a person is unconscious or has a mental health condition that prevents him or her from giving informed consent.

Because sterilization involves a surgical procedure, children who are at least age 14 and who have the mental capacity to understand the benefits, risks and implications of the surgery must give consent jointly with a parent, guardian or care-giver. They can consent to surgery on their own once they reach the age of 18. This is provided for in the Children Care and Protection Act, which also contains procedures for situations where a parent, guardian or care-giver unreasonably withholds consent.

You can ask your doctor for more information about exceptions to the rules on consent.

If you have a complaint about a health care professional, you should record your complaint in an affidavit, which is statement that you have sworn to be true in front of a Commissioner of Oaths. All lawyers are Commissioners of Oaths, and you can also find Commissioners of Oaths at any police station.

Your affidavit should be addressed to the Registrar of the Health Professions Councils of Namibia and should include specific details about the complaint, including what happened, the date of the incident and where it took place. You should also indicate that you want the complaint investigated and provide your contact details.

The Registrar will probably ask you to sign a consent form to allow access to your medical records, in case this is necessary to investigate the complaint. Then the Registrar will forward the complaint to the council which governs the medical professional in question.

Sterilization is an important personal decision that permanently affects someone's ability to conceive children in the future. The procedure can only be performed if you voluntarily give informed consent.

*The contact details of the Health Professions Councils of Namibia are as follows:*

- *street address: 36/37 Schönlein Street, Windhoek West*
- *postal address: Private Bag 13387, Windhoek*
- *email: [legal@hpcna.com.na](mailto:legal@hpcna.com.na)*
- *fax: 061-271 891.*